HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 12B

TRANSITIONAL REQUIREMENTS FOR THE CONVERSION OF MEDICARE SUPPLEMENT INSURANCE BENEFITS AND PREMIUMS TO CONFORM TO REPEAL OF MEDICARE CATASTROPHIC ACT

SUBCHAPTER 1

GENERAL PROVISIONS

§16-12B-1 Purpose. The purpose of this chapter is to assure the orderly implementation and conversion of medicare supplement insurance benefits and premiums due to changes in the federal medicare program; to provide for the reasonable standardization of the coverage, terms, and benefits of medicare supplement policies or contracts; to facilitate public understanding of the policies or contracts; to eliminate provisions contained in the policies or contracts which

may be misleading or confusing in connection with the purchase of the policies or contracts; to eliminate policy or contract provisions which may duplicate medicare benefits; to provide for adjustment of required minimum benefits for medicare supplement policies; to provide notice to former policyholders of offer to reinstitute coverage; to provide full disclosure of policy or contract benefits and benefit changes; and to provide for appropriate premium adjustments. [Eff 10/22/90] (Auth: HRS §§431:2-201, 431:10A-304) (Imp: HRS §§431:10A-104, 431:10A-105)

§16-12B-2 Authority. This chapter is issued pursuant to the authority vested in the commissioner of insurance under sections 431:2-201, 431:10A-303, and 431:13-203, Hawaii Revised Statutes. [Eff 10/22/90] (Auth: HRS §§431:2-201, 431:10A-303, 431:13-203) (Imp: HRS §431:10A-302)

§16-12B-3 Applicability and scope. (a) This chapter shall take precedence over other rules and requirements relating to medicare supplement policies or contracts to the extent necessary to assure that benefits are not duplicated and to adjust minimum required benefits to changes in medicare benefits, that applicants receive adequate notice and disclosure of changes in medicare supplement policies and contracts, that appropriate premium adjustments are made in a timely manner, and that premiums are reasonable in relation to benefits.

(b) Except as provided in section 16-12B-5 this chapter shall apply to:

(1) All medicare supplement policies and contracts delivered, or issued for delivery, or which are otherwise subject to the jurisdiction of this State on or after the effective date hereof; and

(2) All certificates issued under group medicare supplement policies as provided in paragraph (1). [Eff 10/22/90] (Auth: HRS §§431:2-201, 431:10A-303) (Imp: HRS §§431:10A-301, 431:10A-302)

§16-12B-4 Definitions. For purposes of this chapter:

"Applicant" means

(1) In the case of an individual medicare supplement policy or contract, the person who seeks to contract for insurance benefits; and

(2) In the case of a group medicare supplement policy or contract, the proposed certificate holder.

"Certificate" means any certificate issued under a group medicare supplement policy.

"Medicare supplement policy" means a group or individual policy of accident and sickness insurance or any other contract which is advertised, marketed, or designed primarily to provide health care benefits as a supplement to reimbursements under medicare for the hospital, medical, or surgical expenses of persons eligible for medicare by reason of age. [Eff 10/22/90] (Auth: HRS §§431:2-201, 431:10A-304) (Imp: HRS §431:10A-301)

SUBCHAPTER 2

STANDARDS FOR POLICY PROVISIONS AND DISCLOSURE

§16-12B-10 Benefit conversion requirements. (a) Effective January 1, 1990, no medicare supplement insurance policy, contract, or certificate in force in this State shall contain benefits which duplicate benefits provided by medicare.

(b) Benefits eliminated by operation of the Medicare Catastrophic Coverage Act of 1988 transition provisions shall be restored.

(c) For medicare supplement policies subject to the minimum standards adopted by the states pursuant to Medicare Catastrophic Coverage Act of 1988, the minimum benefits shall be:

(1) Coverage of Part A medicare eligible expenses for hospitalization to the extent not covered by medicare from the sixty-first day through the ninetieth day in any medicare benefit period;

(2) Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount;

(3) Coverage of Part A medicare eligible expenses incurred as daily hospital charges during use of medicare's lifetime hospital inpatient reserve days;

(4) Upon exhaustion of all medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety per cent of all Medicare Part A eligible expenses for hospitalization not covered by medicare subject to a lifetime maximum benefit of an additional three hundred sixty-five days;

(5) Coverage under Medicare Part A for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B;

(6) Coverage for the coinsurance amount of medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible ($75); and

(7) Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the medicare deductible amount.

(d) General requirements:

(1) No later than January 31, 1990, every insurer, health care service plan, or other entity providing medicare supplement insurance or benefits to a resident of this State shall notify its policyholders, contract holders, and certificate holders of modifications it has made to medicare supplement insurance policies or contracts. The notice shall be in a format prescribed by the commissioner or in the format adopted by the NAIC (Appendix A) if no other format is prescribed by the commissioner.

(A) The notice shall include a description of revisions to the medicare program and a description of each modification made to the coverage provided under the medicare supplement insurance policy or contract.

(B) The notice shall inform each covered person as to when any premium adjustment due to changes in medicare benefits will be effective.

(C) The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

(D) The notice shall not contain or be accompanied by any solicitation.

(2) No modifications to an existing medicare supplement contract or policy shall be made at the time of or in connection with the notice requirements of this chapter except to the extent necessary to accomplish the purposes articulated in section 16-12B-1. [Eff 10/22/90] (Auth: HRS §§431:2-201, 431:10A-303) (Imp: HRS §§431:10A-304, 431-10A-307)

§16-12B-11 Form and rate filing requirements. (a) As soon as practicable, but no later than forty-five days after the effective date of the medicare benefit changes, every insurer, health care service plan, or other entity providing medicare supplement insurance or contracts in this State shall file with the commissioner, in accordance with the applicable filing procedures of this State:

(1) Appropriate premium adjustments necessary to produce loss ratios as originally anticipated for the applicable policies or contracts.

The supporting documents as necessary to justify the adjustment shall accompany the filing; and

(2) Any appropriate riders, endorsements, or policy forms needed to accomplish the medicare supplement insurance modifications necessary to eliminate benefit duplications with medicare and to provide the benefits required by section 16-12B-10. Any such riders, endorsements, or policy forms shall provide a clear description of the medicare supplement benefits provided by the policy or contract.

(b) Upon satisfying the filing and approval requirements of this State, every insurer, health care service plan, or other entity providing medicare supplement insurance in this State shall provide each covered person with any rider, endorsement, or policy form necessary to make the adjustments outlined in section 16-12B-10.

(c) Any premium adjustments shall produce an expected loss ratio under the policy or contract as will conform with minimum loss ratio standards for medicare supplement policies and shall result in an expected loss ratio at least as great as that originally anticipated by the insurer, health care service plan, or other entity for such medicare supplement insurance policies or contracts. Premium adjustments may be calculated for the period commencing with medicare benefit changes. [Eff 10/22/90] (Auth: HRS §§431:2-201, 431:10A-303) (Imp: HRS §§431:10A-304, 431:10A-305, 431-10A-306)

§16-12B-12 Accelerated policy adjustment procedures. (a) Each filing of medicare supplement insurance policy form changes and endorsements needed to accomplish timely implementation of this chapter shall be accompanied by the certification of an officer of the filing entity that the filing complies with all the requirements of this chapter, and that any portion of the filing found by the commissioner not to comply with any requirement of this chapter will be modified by the filing entity as ordered by the commissioner to comply therewith. The filing entity shall further certify that any such modification ordered by the commissioner will be made effective as of the effective implementation date of the filing to which the original certification applies and that the entity will promptly notify affected insureds of the modifications.

(b) Upon receipt of a medicare supplement insurance filing made solely for the purpose of implementing adjustments to medicare supplement insurance necessary to provide a transition of benefits and premiums to conform to repeal of the Medicare Catastrophic Act of 1988 and to the requirements of this chapter, the commissioner deems approved for immediate use all filed benefit and form adjustments that comply with all requirements of this chapter.

(c) Upon completion of review of the filings received pursuant to these accelerated policy adjustment procedures, the commissioner shall order such

modifications as are necessary to bring the filing into compliance with this chapter. [Eff 10/22/90] (Auth: HRS §§431:2-201, 431:10A-303) (Imp: HRS §431:10A-304 431:10A-305, 431-10A-306)

§16-12B-13 Offer of reinstitution of coverage. (a) Except as provided in subsection (b), in the case of an individual who had in effect, as of December 31, 1988, a medicare supplemental policy with an insurer (as a policyholder or, in the case of a group policy, as a certificate holder) and the individual terminated coverage under the policy before the date of the enactment of the repeal of the Medicare Catastrophic Coverage Act of 1988, the insurer shall:

(1) Provide written notice no earlier than December 15, 1989, and no later than January 30, 1990, to the policyholder or certificate holder (at the most recent available address) of the offer described below; and

(2) Offers the individual, during a period of at least sixty days beginning not later than February 1, 1990, reinstitution of coverage (with coverage effective as of January 1, 1990), under the terms which:

(A) Do not provide for any waiting period with respect to treatment of pre-existing conditions;

(B) Provide for coverage which is substantially equivalent to coverage in effect before the date of such termination; and

(C) Provide for classification of premiums on which terms are at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage never terminated.

(b) An insurer is not required to make the offer under paragraph (2) in the case of an individual who is a policyholder or certificate holder in another medicare supplemental policy as of January 1, 1990, if the individual is not subject to a waiting period with respect to treatment of a pre-existing condition under such other policy. [Eff 10/22/90] (Auth: HRS §§431:2-201, 431:10A-303) (Imp: HRS §431:10A-304)

§16-12B-14 Requirements for new policies and certificates. (a) Effective January 1, 1990, no medicare supplement insurance policy, contract, or certificate shall be delivered or issued for delivery in this State which provides benefits which duplicate benefits provided by medicare. No such policy, contract, or certificate shall provide less benefits than those required under the existing Medicare Supplement Insurance Minimum Standards Model Act or Regulation

except where duplication of medicare benefits would result and except as required by these transition provisions.

(b) General requirements:

(1) Within ninety days of the effective date of this chapter, every insurer, health care service plan, or other entity required to file its policies or contracts with this State shall file new medicare supplement insurance policies or contracts which eliminate any duplication of medicare supplement benefits with benefits provided by medicare, which adjust minimum required benefits to changes in medicare benefits and which provide a clear description of the policy or contract benefit;

(2) The filing required under section 16-12B-11(a)(1) shall provide for loss ratios which are in compliance with all minimum standards; and

(3) Every applicant for a medicare supplement insurance policy, contract, or certificate shall be provided with an outline of coverage which simplifies and accurately describes benefits provided by medicare and policy or contract benefits along with benefit limitations. [Eff 10/22/90] (Auth: HRS §§431:2-201, 431:10A-303) (Imp: HRS §431:10A-304)

§16-12B-15 Filing requirements for advertising. Every insurer, health care service plan, or other entity providing medicare supplement insurance or benefits in this State shall provide a copy of any advertisement intended for use in this State whether through written, radio, or television medium to the commissioner of insurance of this State for review or approval by the commissioner to the extent it may be required under state law. Such advertisement shall comply with all applicable laws of this State. [Eff 10/22/90] (Auth: HRS §§431:2-201, 431:10A-303, 431:13-203) (Imp: HRS §§431:13-103; 431:10A-310)

§16-12B-16 Buyer's guide. No insurer, health care service plan, or other entity shall make use of or otherwise disseminate any buyer's guide or informational brochure which does not accurately outline current medicare benefits and which has not been adopted by the commissioner. [Eff 10/22/90] (Auth: HRS §§431:2-201, 431:10A-303) (Imp: HRS §431:10A-307)

§16-12B-17 Separability. If any provision of this chapter or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the chapter and the application of such provision to other

persons or circumstances shall not be affected thereby. [Eff 10/22/90] (Auth: HRS §§431:2-201, 431:10A-303) (Imp: HRS §431:10A-301)

Chapter 16-12B, Hawaii Administrative Rules, on the Summary Page dated August 3, 1990, was adopted on August 3, 1990, following a public hearing held on July 25, 1990, after public notices were given in the Honolulu Star-Bulletin, Honolulu Advertiser, West Hawaii Today, the Hawaii Tribune-Herald, the Maui News, and the Garden Island on June 20, 1990.

The adoption of Chapter 16-12B shall take effect ten days after filing with the Office of the Lieutenant Governor.

/s/ Robin K. Campaniano
ROBIN K. CAMPANIANO
Commissioner of Insurance

APPROVED AS TO FORM: Date: 9/24/90

/s/ Dewey Kim, Jr.
Deputy Attorney General

APPROVED: Date: 9/27/90

/s/ Robert A. Alm
ROBERT A. ALM
Director of Commerce and Consumer Affairs

APPROVED: Date: 10/10/90

/s/ John Waihee
JOHN WAIHEE
Govenor of Hawaii

October 11, 1990
Filed

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Adoption of Chapter 16-12B
Hawaii Administrative Rules
August 3, 1990

SUMMARY

Chapter 16-12B, Hawaii Administrative Rules, entitled "Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Repeal of Medicare Catastrophic Coverage Act" is adopted.